

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Laurie Frederick,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 14-77-0232
Parcel No. 190/00978-000-000

On January 7, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Laurie Frederick was represented by attorney Jason Springer of Springer Law Firm, Des Moines, Iowa. Assistant Polk County Attorney David Hibbard represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Laurie Frederick, owner of property located at 2990 NE 49th Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a one-story, single-family dwelling built in 1968 with 1120 square feet of living area; a full, unfinished basement; a 672 square-foot attached garage; a deck and a patio. The dwelling has an average quality grade (4-05) and is listed in very good condition. Its site is 1.793-acres.

The real estate was classified residential on the initial assessment of January 1, 2014, and valued at \$172,400, representing \$33,000 in land value and \$139,400 in improvement value. This was a change from the 2013 assessment making it a reassessment year with all grounds of protest available. Frederick protested to the Board of Review on the grounds that the assessment was not equitable

compared to like properties in the taxing jurisdiction, that the property was assessed for more than the value authorized by law, and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a), (b), and (d). The Board of Review granted the protest, in part, and reduced the assessment to \$140,000, representing \$33,000 in land value and \$107,000 in improvement value.

Frederick then filed his appeal with this Board and urged the same grounds. Her error claim essentially restates her over-assessment claim. She claims \$115,375 is the actual value and fair assessment of the subject property.

Frederick purchased the subject property in April 2013 for \$69,900. She states that no major changes have been done to the front, exterior of the dwelling since she bought it. We note that the property record card indicates a permit was taken out to remove a garage and add a deck in August 2013. She did not provide any evidence of market value, such as an appraisal or adjusted comparable sale properties.

Frederick identified three properties she believes are similar to hers, but have lower assessments. She states these properties have an average assessment of \$123,766. We note that the subject's lot is larger than these properties and they also lack comparable garage space. Only one of these properties recently sold. 5406 NE 23rd Ave sold in November 2013 for \$139,900 and is currently assessed for \$127,000. However, one comparable property sale is not sufficient to complete an equity analysis.

She also reviewed assessments of all single family, one-story homes in her immediate neighborhood (DE01). She calculated the average assessment of these homes is \$106,984. (Exhibit 5). Based on the average assessment of the three specifically identified properties and the average neighborhood assessment, Frederick believes that her home should be assessed at \$115,375. (Exhibit 1). No detailed information was provided about these neighborhood properties and therefore, we are unable to determine if they are reasonably comparable to the Frederick dwelling. Further, averaging

assessments in this manner is not an acceptable or reliable method of determining a property's value. Additionally, comparing assessments alone is insufficient to establish an equity or market claim. Accordingly, we give this evidence no consideration.

Frederick also identified a property located at 2960 NE 49th Avenue that sold in June 2010 for \$144,000 (Exhibit 6). This property is assessed at \$145,700. Frederick believes this house is similar to hers and gives an indication of her property's value. We note that both the 2010 sale price and assessed value of 2960 49th Avenue are higher than Frederick's assessment and this does not support her claim that the subject property is either over or inequitably assessed. We add that 2960 NE 49th varies from the subject in lot size age, living area, and amenities, which limits its comparability. Frederick also provided a partial web-listing for 2960 44th Avenue; however, it did not provide any detailed information about the property and it is insufficient to simply compare assessments of what may be a dissimilar properties. This evidence does not support her claim and we give it no consideration.

The Board of Review Appraiser Analysis indicates the subject property was initially a foreclosure sale. The property was gutted and redone including a new driveway, patio, and deck in 2013. We note Frederick purchased the property from an investment firm in April 2013 that had bought the property for \$38,380 in February 2013.

The record included an analysis completed by the assessor office of four comparable 2013 sales in the same district as the subject property. These properties ranged from 1056 to 1181 square feet of living area. Sale prices ranged from \$103,000 to \$167,500, or \$91.96 to \$155.67 per-square-foot. The comparable sales were adjusted by market-based costs for lot size, living area, quality, garage, condition, and age. The adjusted value range was \$146,245 to \$198,494, or \$124.24 to \$187.97 per-square-foot. This analysis indicated a value of \$176,380 for the subject property.

Amy Rasmussen, Director of Litigation at the Polk County Assessor's office, testified on behalf of the Board of Review. She explained the assessor's staff conducted an interior inspection of the property after the renovations were completed in 2013. The sale price was based on the remodeled condition. The updating and inspection resulted in the increased 2014 assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*

City of Davenport, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Frederick listed three properties for equity and market comparison. Only one of the properties had recently sold. However, one comparable is insufficient evidence to prove inequity. *Maxwell*, 133 N.W.2d at 712. It is necessary to have more than one recent sale and assessment data for comparable properties to develop an assessment/sales ratio. Further, Frederick did not provide any evidence of the subject’s actual value as of January 1, 2014, to complete the equity analysis contemplated by *Maxwell*. In addition, Frederick did not make any argument that the assessor applied an assessing method in a non-uniform manner. Therefore, we Frederick did not prove by a preponderance of the evidence that the property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

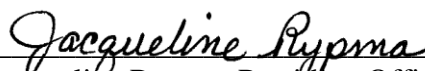
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Frederick did not provide evidence to show the fair market value of the property,

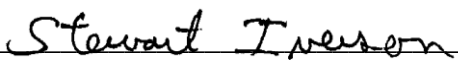
such as an appraisal, comprehensive market analysis, or adjusted comparable sales data. Although she had recently purchased the property, the evidence indicates it was the result of a foreclosure sale which is considered an abnormal sale. We are mindful of the fact that foreclosures and lender sales are not considered normal transactions and require either exclusion or adequate adjustments to be used as comparative sales. *See* Iowa Code § 441.21(1)(b). Although Frederick's purchase followed the foreclosure sale and subsequent interior remodeling, the circumstances suggest the sale price may not be a reliable indication of value. In addition, modifications were made to the property's exterior after the purchase that would enhance the property's value and render the sales price an inaccurate reflection of the property's value as of January 1, 2014.

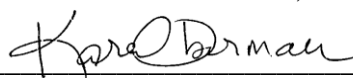
Ultimately, Frederick's evidence did not show the property was inequitably assessed and did not establish the fair market value of the property as of January 1, 2014 to prove over-assessment.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 18th day of February, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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